

Message Text

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ACTION EB-08

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FOR EB/OCA/ZUCCA

E.O. 11652:NA
TAGS: ELAB, JA
SUBJECT: MANPOWER'S OPERATIONS IN JAPAN

REFS: (A) TOKYO 3935, (B) STATE 54956

1. SUMMARY. EMBASSY HAS DISCUSSED WITH LOCAL MANPOWER INC. REPRESENTATIVES THE PROBLEMS INVOLVING THEIR FUTURE OPERATIONS IN JAPAN. EMBOFF AGREED THAT WHEN THE LABOR ATTACHE RETURNS TO TOKYO, INQUIRIES ON MANPOWER'S BEHALF MIGHT BE MADE WITH MINISTRY OF LABOR. END SUMMARY.

2. IN THE ABSENCE OF THE LABOR ATTACHE, THE COMMERCIAL COUNSELOR MET WITH A.F.J. FINNERTY, PRESIDENT OF MANPOWER JAPAN CO., LTD., AND MANPOWER'S ATTORNEY, MICHAEL A. BRAUN, TO DISCUSS THE ISSUES RAISED IN THE LETTER SENT TO DEPUTY ASSISTANT SECRETARY BILLER BY JAMES A FROMSTEIN, VICE PRESIDENT FOR INTERNATIONAL MARKETING OF MANPOWER INC.

3. ACCORDING TO FINNERTY, THE MOST IMMEDIATE PROBLEM HAS BEEN RESOLVED. THE DECISION BY THE ASAHI SHIMBUN ADVERTISING MANAGER NOT TO ACCEPT FURTHER ADVERTISING
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FROM MANPOWER WAS OVERRULED BY THE ADVERTISING ETHICS ASSOCIATION. EFFECTIVE MARCH 10, THE ASAHI RESUMED CARRYING MANPOWER ADVERTISING.

4. MANPOWER IS, HOWEVER, FACED WITH TWO SERIOUS PROBLEMS:
(1) THE MINISTRY OF LABOR HAS SUBMITTED THE MANPOWER CASE TO THE MINISTRY OF LABOR WITH A REQUEST FOR AN

INDICTMENT FOR VIOLATION OF LABOR STANDARDS LAW; AND (2)
A PRIVATE EMPLOYMENT AGENCY HAS LODGED A COMPLAINT
AGAINST MANPOWER WITH THE TOKYO PROCURATOR'S OFFICE,
CITING EMPLOYMENT SECURITY LAW.

5. SINCE FINNERTY IS REPORTING TO FROMSTEIN REGARDING
HIS CONVERSATION WITH THE EMBASSY, WE WILL NOT REVIEW
THE LEGAL DETAILS. IN SIMPLIFIED TERMS, JAPANESE LAW
APPARENTLY DOES NOT PROVIDE A CLEAR BASIS FOR AN
OPERATION SUCH AS MANPOWER'S. IT DOES PROVIDE FOR
LICENSING OF "EMPLOYMENT AGENCIES," WHICH ARE LIMITED
TO A VERY NARROW RANGE OF ACTIVITIES. EVEN IF IT WERE
POSSIBLE FOR MANPOWER TO BE LICENSED AS AN "EMPLOYMENT
AGENCY," WHICH IN ITS VIEW IT IS NOT, THE FIRM WOULD
BE FORCED TO CEASE ITS OPERATIONS IN JAPAN.

6. ACCORDING TO FINNERTY AND BRAUN, THE PRESSURE ON THE
MINISTRY OF LABOR TO MAKE A DEFINITE AND FAVORABLE
DETERMINATION AS TO THE LEGALITY OF THE MANPOWER
OPERATION BASICALLY COMES FROM OTHER FIRMS WHICH WISH
TO ENGAGE IN THE SAME BUSINESS. SUCH FIRMS ARE THEREFORE
INTERESTED IN FORCING THE MINISTRY TO ACT, ONE WAY OR
THE OTHER. CONTRARY PRESSURE COMES FROM OTHER QUARTERS,
E.G., THE NATIONAL POLICE WHO FEAR THAT A FAVORABLE
DETERMINATION WOULD LEGITIMIZE THE UNDERWORLD'S CONTROL
OF DOCK WORKERS. CERTAIN UNIONS WOULD ALSO BE OPPOSED
TO A FAVORABLE DECISION.

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7. THE MANPOWER ATTORNEY DID NOT BELIEVE IT ADVISABLE
FOR THE EMBASSY TO CONTACT THE TOKYO PROCURATOR'S
OFFICE, BUT FELT IT WOULD BE USEFUL FOR THE EMBASSY TO
MAKE INQUIRIES AT THE MINISTRY OF LABOR REGARDING
MANPOWER'S SITUATION. (HE SAID HE THOUGHT THAT THE
MINISTRY OF JUSTICE WAS NOT IN A HURRY TO ACT ON THIS
CASE, BECAUSE IT DID NOT "WISH TO MAKE WAVES.")

8. CCOUNS HAD EARLIER INDICATED TO THE VISITORS THAT
THE LABOR ATTACHE WAS OUT OF THE COUNTRY FOR TWO WEEKS,
AND WOULD BE THE APPROPRIATE EMBASSY OFFICER TO APPROACH
THE MINISTRY OF LABOR. HE SAID HE WOULD BRIEF THE
LABOR ATTACHE ON HIS RETURN (THE WEEK OF MARCH 27) AND,
UNLESS THE LATTER SAW ANY PROBLEMS, ASSUMED THAT SUCH
AN APPROACH COULD BE MADE.

9. FYI THIS CASE HAD NOT BEEN PREVIOUSLY RAISED WITH
THE EMBASSY BY MANPOWER. WE WERE AWARE OF CASE FROM
LOCAL PUBLICITY GIVEN IT BY LOCAL MANPOWER REPS, BUT
SINCE THEY DID NOT APPROACH US WE HAD TO ASSUME THEY
PREFERRED TO HANDLE THEIR PROBLEMS IN THEIR OWN WAY.

WE NOW UNDERSTAND FINNERTY HAD INTENDED TO APPROACH US,
BUT FIRST REQUESTED CLEARANCE FROM HIS HOME OFFICE.
INSTEAD OF GIVING SUCH CLEARANCE, FROMSTEIN APPARENTLY
DECIDED TO SEND HIS LETTER TO BILLER WITH THE REQUEST
FOR EMBASSY ASSISTANCE. WE WILL PROCEED DISCREETLY
IN CLOSE COLLABORATION WITH FINNERTY AND TRY TO AVOID
MOVING INTO A SITUATION IN WHICH FORMAL INTERVENTION
MIGHT PRODUCE A NEGATIVE FORMAL RULING WHEREAS A MORE
MODEST APPROACH MAY PRODUCE CONTINUED TOLERATION OF
ACTIVITY THAT LABOR MINISTRY HAS SOME QUESTIONS ABOUT.
END FYI. MANSFIELD

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